@))

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2953 of 1999

with
SPECIAL CIVIL APPLICATION NO. 2955 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

YOGI SYNTHETICS PRIVATE LTD.

Versus

APPELLATE AUTHORITY

Appearance:
Mr Yogesh Vyas for M/S TRIVEDI & GUPTA for Petitioners
MR MD PANDYA for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 07/03/2000

ORAL JUDGEMENT

In both these petitions, orders passed by the appellate committee are challenged .

It appears that even earlier, the petitioners approached this Court by filing SCA Nos. 239 and 240 of 1999. Learned Single Judge though did not issue notice to the respondents, passed an order on January 18, 1999 permitting the petitioners to file an application and to bring to the notice of the appellate committee any error said to have been committed in the operative part of the judgment regarding working hours. It appears that the grievance of the petitioners was that the appellate committee did not consider working hours. It also did not take into account load factor. After the order passed by this Court, again, the committee considered the relevant factors and passed orders which are challenged now in the present petitions.

Notices were issued, pursuant to which the Board appeared. I have heard Mr. Yogesh Vyas of Trivedi and Gupta, Advocates for the petitioners and Mr. M.D.Pandya for the respondents.

It was submitted on behalf of the petitioners that it is true that after the order was passed by this Court, the committee considered the case of the petitioner and rejected all the contentions. But the committee failed to consider relevant load factor as also working hours.

On the other hand, Mr. Pandya for the respondents submitted that the committee took into account all relevant factors including working hours and there is no error. He, however, submitted that if there is any error, it would be for the committee to consider the same and in such matters, this Court does not exercise power of judicial review under Article 226/227 of the Constitution, and does not correct any error said to have been committed on the basis of findings arrived at by the appellate committee. It may be stated that the appellate committee consists of experts as well as a judicial member.

In the facts and circumstances, in my opinion, the only order which can be passed by this Court would be that if the petitioner is of the opinion that the appellate committee has committed some error or that something which was relevant was not considered by it, it would be open to them to make appropriate application/ representation . If such application/ representation is made within eight weeks from today, it will be considered by the appellate committee and will be decided in accordance with law preferably within four weeks from receipt of the application / representation. It is also directed that if the amount which was liable to be paid

by the petitioners is not paid, the same will be paid within six weeks from today. It is, however, clarified that representation/ application will be considered only after the said amount is paid. Obviously, the order passed by the authority would not confer a fresh cause of action in favour of the petitioners. Petitions are accordingly disposed of. Notice discharged. No order as to costs.

--
parekh